

REMARKS

This responds to the Final Office Action mailed on January 15, 2009.

Claims 1, 4, 13-14, 25, 28 and 37 are amended, claims 2-3, 5, 24, 26-27 and 29 are canceled without prejudice or disclaimer, and claims 38-44 are added; as a result, claims 1, 4, 6-23, 25, 28 and 30-44 are now pending in this application. Support for the amendments may be found throughout the specification, and at least on page 22, lines 1-4 and page 26, lines 5-20. Applicant respectfully submits that no new matter has been introduced with the amendments.

35 U.S.C. §103 Rejection of the Claims

Claims 1-3, 5-10, 13-15, 18-23, 24-27, 29-34, and 37 were rejected under 35 U.S.C. § 103(a) as being obvious over Flake et al. (U.S. Patent No. 5,832,451; hereinafter “Flake”) in view of Gardner et al. (U.S. Publication No. 2002/0178034; hereinafter “Gardner”). The determination of obviousness under 35 U.S.C. § 103 is a legal conclusion based on factual evidence. *See Princeton Biochemicals, Inc. v. Beckman Coulter, Inc.*, 411 F.3d 1332, 1336-37 (Fed.Cir. 2005). The legal conclusion that a claim is obvious within § 103(a) depends on at least four underlying factual issues set forth in *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17, 86 S.Ct. 684, 15 L.Ed.2d 545 (1966). The underlying factual issues set forth in *Graham* are as follows: (1) the scope and content of the prior art; (2) differences between the prior art and the claims at issue; (3) the level of ordinary skill in the pertinent art; and (4) evaluation of any relevant secondary considerations.

The Examiner has the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir.1988). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested, by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) ; M.P.E.P. § 2143.03. "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970) ; M.P.E.P. § 2143.03. As part of establishing a *prima facie* case of obviousness, the Examiner's analysis must show that some objective teaching in the prior art or that knowledge

generally available to one of ordinary skill in the art would lead an individual to combine the relevant teaching of the references. *Id.* To facilitate review, this analysis should be made explicit. *KSR Int'l v. Teleflex Inc., et al.*, 127 S.Ct. 1727; 167 L.Ed 2d 705; 82 USPQ2d 1385 (2007) (citing *In re Kahn*, 441 F. 3d 977, 988 (Fed. Cir. 2006)).

Applicant respectfully submits that a *prima facie* case of obviousness does not exist with respect to claims 1-3, 5-10, 13-15, 18-23, 24-27, 29-34, and 37 in view of the differences between the claims as amended and the combination of Flake and Gardner. For example, independent claims 1 and 25 as amended recite “querying a call management system to receive data indicating an availability of travel counselors, the travel counselors associated with one or more skill groups, wherein a travel counselor is available when the travel counselor is not processing a call.” Independent claim 14 as amended recites similar subject matter. Applicant has reviewed Flake and Gardner, and can find no teaching or suggestion of querying a call management system to determine an availability of travel counselors. Flake discloses a call management system that forward live calls, fax and email messages (see e.g., column 8, lines 4-16. Similarly, Gardner discloses a Computerized Telephony Integration system that allows access to booking records (see e.g., paragraph [0058]). However, neither Flake nor Gardner teach or suggest querying the call management system to determine a number of available travel counselors.

Additionally, claims 1 and 25 as amended further recite “upon determining that a number of available travel of counselors within the skill group associated with the task is above a predetermined threshold, routing the task to a travel counselor within the skill group for further processing the task.” Independent claim 14 as amended recites similar subject matter. Applicant has reviewed the cited references and can find no teaching or suggestion of determining that a predetermined number of available travel counselors are available to handle live calls before routing a deferred task to a travel counselor having the skill group to handle the deferred task.

For the reasons above, claims 1, 14 and 25 recite multiple elements that are not found in the combination of Flake and Gardner. As a result, there are multiple differences between claims 1, 14 and 25 and the combination of Flake and Gardner. Therefore claims 1, 14 and 15 are not obvious in view of the combination. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 1, 14 and 25.

Claims 2-3, 5, 24, 26-27 and 29 have been canceled without prejudice or disclaimer, therefore the rejection of these claims is believed moot.

Claims 6-10 and 13 depend either directly or indirectly from claim 1; claims 15 and 18-23 depend either directly or indirectly from claim 14; and claims 30-34 and 37 depend either directly or indirectly from claim 25. These dependent claims are patentable over Flake and Gardner for the reasons argued above, and are also patentable in view of the additional elements which they provide to the patentable combination. If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is also nonobvious. MPEP § 2143.03.

Claims 4 and 28 were rejected under 35 U.S.C. § 103(a) as being obvious over Flake in view of Gardner as applied to claim 1 above, and further in view of Bull et al. (U.S. Patent No. 5,995,943; hereinafter “Bull”).

Claims 11 and 36 were rejected under 35 U.S.C. § 103(a) as being obvious over Flake in view of Gardner as applied to claim 1 above, and further in view of Iyengar et al. (U.S. Patent No. 6,360,205; hereinafter “Iyengar”).

Claims 12 and 36 were rejected under 35 U.S.C. § 103(a) as being obvious over Flake in view of Gardner as applied to claim 1, and further in view of Harris et al. (U.S. Publication No. 2002/0108109; hereinafter “Harris”).

Claims 16-17 were rejected under 35 U.S.C. § 103(a) as being obvious over Flake in view of Gardner as applied to claim 1 above, and further in view of Lynch et al. (U.S. Patent No. 6,119,094; hereinafter “Lynch”).

Each of claims 4, 11, 12, 16, 17, 28, and 35-36 depend either directly or indirectly from claims 1, 14 or 25. Thus these dependent claims inherit the elements of the respective base claims, including elements discussed above related to querying a call management system to receive data indicating an availability of travel counselors and upon determining that a number of available travel of counselors within the skill group associated with the task is above a predetermined threshold, routing the task to a travel counselor within the skill group for further processing the task. As discussed above, Flake and Gardner fail to teach or suggest the above-mentioned elements. In addition, Applicant has carefully reviewed Bull, Iyengar, Harris and Lynch and can find no teaching or suggestion of querying a call management system to receive data indicating an availability of travel counselors or upon determining that a number of

available travel of counselors within the skill group associated with the task is above a predetermined threshold, routing the task to a travel counselor within the skill group for further processing the task. As a result, the combination of Flake and Gardner with any of Bull, Iyengar, Harris and Lynch does not teach or suggest each and every element of claims 4, 11, 12, 16, 17, 28, and 35- 36. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 4, 11, 12, 16, 17, 28, and 35-36.

New Claims 38-44

Claims 38-44 have been added in this response. Support for claims 38-44 may be found throughout the specification, and at least on pages 24-25 of the specification. Applicant respectfully submits that no new matter has been introduced in new claims 38-44. Claims 38-40 depend from claim 1, claims 41-42 depend from claim 14 and claims 43-44 depend from claim 25. These dependent claims are therefore allowable for at least the reasons discussed above regarding their respective base claims 1, 14 and 25. Additionally, Applicant has reviewed the currently cited references and can find no teaching or suggestion of the claimed subject matter in claims 38-44.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 373-6954 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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Date July 15, 2009

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 15, 2009.

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